

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, December 1, 2010
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: November 18, 2010

RE: Closed Session of the Board to be held on December 1, 2010

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. ALL AMERICAN ASPHALT, 09-R3D1-3871 AND 3872
2. DAVEY TREE SURGERY, CO., 08-R1D2-3757 AND 3758
3. GOLDEN GATE STEEL, INC., 10-R6D2-0954 THROUGH 0957

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ALVAREZ CONSTRUCTION DBA ACI DRYWALL & METAL, 10-R4D3-2079
2. AMERICAN THEATRICAL DRYWALL & FRAMING, INC., 10-R4D2-2202

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3. AMY, INC. DBA SIMI VALLEY CAR WASH, 09-R6D5-4320 AND 4321
4. AYALA BORING, INC., 10-R5D3-2054
5. BENNETT LANDSCAPE, 10-R3D5-1959 THROUGH 1962
6. CASTEEN CONSTRUCTION, INC., 10-R3D2-0085
7. CHEVRON USA DBA CHEVRON PRODUCTS COMPANY, 10-R6D4-2502
8. EAGLE IRON ERECTORS, INC., 10-R4D2-2982
9. FALCON ENTERPRISES, INC. DBA FALCON ROOFING COMPANY, 10-R3D3-2074 THROUGH 2077
10. FIELD FRESH FOODS, INC., 10-R4D1-1037
11. GALLEHER, INC., 10-R6D2-1674 THROUGH 1680
12. GIBBS CONSTRUCTION CO., 10-R4D3-1378 THROUGH 1380
13. GODOY PALLETS, INC., 10-R6D5-0325
14. JONES SCAFFOLD CO., 10-R4D1-2730
15. L.A. CITY DEPARTMENT OF GENERAL SERVICES, 10-R4D2-2545 THROUGH 2547
16. L.A. COUNTY – DEPARTMENT OF CHILDREN AND FAMILY SERVICES, 10-R3D5-2519
17. LAS FLORES CONVALESCENT HOSPITAL, 10-R4D1-1865
18. LOVIN' ENTERPRISES, INC. DBA DREAMGIRL INTERNATIONAL, 10-R4D2-3078
19. MEZA PALLETS, INC., 10-R6D5-0935 THROUGH 0937
20. OLDFIELD & M. GARCIA DBA HI-TECH HEAT TREATING, 10-R4D1-0827 THROUGH 0832
21. PALLET MARKET LLC, 10-R6D5-0860 THROUGH 0864
22. PLATINUM CONSTRUCTION, INC., 10-R4D2-1558
23. PRESTIGE THUNDERBIRD, 10-R3D6-1910 THROUGH 1912

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24. QUICK CLEAN, 10-R3D2-1766
25. R. A. PROCUM LLC, 09-R3D2-4154 THROUGH 4156
26. ROGO CONSULTING, INC., 10-R4D1-0105 THROUGH 0107
27. ROLLED STEEL PRODUCTS, 10-R6D2-0853 THROUGH 0858
28. VINTAGE PLASTERING, INC., 09-R3D6-2951
29. WEST COAST LIQUIDATORS, INC. DBA BIG LOTS DC 873, 10-R3D3-2201
30. WESTERN STATES WHOLESALE, 10-R3D3-2974 AND 2975
31. ZAS, INC. DBA FIRST STREET CAR WASH, 09-R6D5-4318 AND 4319

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. BURRTEC WASTE INDUSTRIES, 10-R3D3-9222
2. FLEMING METAL FABRICATORS, 09-R6D2-4309 THROUGH 4311
3. KOGA COLORSCAPE & MAINTENANCE, INC., 10-R3D1-9220
4. PACIFIC WESTLINE, INC., 10-R3D1-0278

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. AGRI-FEED INDUSTRIES, 09-R3D2-4055
2. LUIS CUEVA MICHEL DBA LUIS MICHEL, 09-R2D1-3013
3. WARWICK CALIFORNIA CORP DBA WARWICK S.F. HOTEL, 09-R1D1-0894

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
2. AC TRANSIT, 08-R1D4-0135

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3. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
4. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
7. BART, 03-R1D1-5170
8. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
9. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
11. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
12. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
13. BURTON L. SILVA FARMS, 09-R1D2-1498
14. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
15. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
16. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
17. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
18. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
19. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
20. CLINE CELLARS, INC., 08-R1D5-2946
21. CJi PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
22. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
23. COMMERCIAL METAL FORMING, 09-R3D1-1592
24. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379

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25. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
26. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
27. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
28. DESIGN BUILDERS, INC., 08-R4D4-1901
29. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
30. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
31. DUKE PACIFIC, INC., 08-R3D3-574
32. DUININCK BROS., INC., 06-R4D3-2871
33. DYNALECTRIC, 03-R1D1-4101
34. E. C. U., INC., 09-R3D5-1094 AND 1095
35. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09- R6D2-2325 THROUGH 2332
36. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
37. EZ MIX, INC., 08-R4D3-1898
38. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
39. FORTUNA IRON WORKS 06-R2D3-4222
40. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
41. G.T. ALDERMAN, INC., 05-R4D3-3513
42. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
43. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
44. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
45. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
46. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
47. HB PARKCO, 07-R4D2-1730 AND 1731

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48. HELPMATES STAFFING SERVICES, 05-R3D3-2239
49. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
50. THE HERRICK CORP., 07-R3D1-495
51. HUSSMAN CORPORATION, 03-R3D1-2939
52. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
53. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
54. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
55. JENSEN PRECAST, 05-R2D1-2377
56. JOHN LAING HOMES, 04-R3D1-194 AND 195
57. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
58. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
59. KELLY SERVICES, INC., 06-R1D2-1024
60. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
61. LA MINA CANTINA, 09-R2D5-0039
62. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
63. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
64. LION RAISINS, INC., 08-R2D5-2253 AND 2254
65. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
66. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
67. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
68. MARINE TERMINALS, 08-08-R6D2-1920
69. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
70. MELMARC PRODUCTS, INC., 09-R3D1-2878

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71. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
72. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
73. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
74. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
75. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
76. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
77. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
78. POUK & STEINLE, INC., 09-R3D3-0491
79. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
80. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
81. R & L BROSAMER, INC., 03-R1D5-4832
82. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
83. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
84. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
85. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
86. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
87. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
88. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
89. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
90. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
91. SMUD, 08-R2D1-4887 THROUGH 4889 (filed by DOSH)
92. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418

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- 93. STACY & WITBECK, INC., 05-R1D1-1142
- 94. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
- 95. SUNOPTA FRUIT GROUP, 09-R3D1-9245
- 96. SUNRISE GROWERS FROZ SUN FOODS, 09-R4D3-2850
- 97. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
- 98. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
- 99. TEICHERT AGGREGATES, 04-R5D1-2982
- 100. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
- 100. UNITED PARCEL SERVICE, 07-R3D3-3322
- 101. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
- 102. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
- 103. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

- 1. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
- 2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
- 3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
- 4. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)

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5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
7. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
8. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
9. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499/2500)
10. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
11. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09- 9280/9281)
12. JC CONSTRUCTION, BS124990 (09-9265)
13. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
14. MISSION FLAVORS AND FRAGRANCE, INC., 34-2010-80000599 (05-R6D2-1139)
15. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047 (07-R5D1-3611)
16. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)
17. BAY AREA RAPID TRANSIT DISTRICT, 34-2010-80000683 (09-R2D2-1218 THROUGH 1221)
18. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)

COURT OF APPEAL

1. SOUTHERN CALIFORNIA EDISON, B223828 (BS 119297) (08-9062)
2. HARRIS CONSTRUCTION COMPANY, INC., C060578 (07-CS00518) (05-3914)
3. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)